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INCREASED PRODUCTION AS A REMEDY FOR INFLATION: THE KANSAS INDUSTRIAL RELATIONS COURT PLAN

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Governor of Kansas

IT is a very great privilege to stand for a few moments before this distinguished Academy, to present a remedy which I believe in, to ride in this very fine presence a hobby which I love very much.

Out in Kansas we have found what we believe to be an important remedy for industrial controversies. We believe that we will be able to produce a period of stabilization in the production of essential necessities by doing away with industrial warfare. We discovered the remedy out of the grim necessity of the coal strike last winter.

When the coal strike came on in Kansas and the central part of the United States, we found that everybody was out of coal, except the coal operators and the coal miners, and something had to be done, unless we were to submit tamely to the unpleasant process of freezing. The State took over the coal mines and called for volunteers. It seemed impossible for us to believe out there in Kansas, where all of us live more or less outdoor lives, the dictum that coal could be mined only under certain regulations, at certain hours of the day, by certain self-classified individuals; and so the State took over the coal mines and asked for volunteers. In twenty-four hours more than 11,000 people, most of whom had never seen a coal mine, came to dig coal. Out of this magnificent offering, the State chose a sufficient number of stalwart young men, most of whom had been in the Army, and these boys went to the district and, under conditions which the miners themselves declared were insuperable, they produced enough coal in ten days to relieve the emergency in two hundred Kansas communities.

They did more than that: they set up a new fundamental realization, in their own minds and in the minds of those who

looked on and in the minds of those who were benefited by the production, that Government still has a responsibility and a remedy in industrial warfare.

So the Legislature was called into session immediately, and there was produced, by an almost unanimous vote of both Houses (that is, by all but seven votes in the lower House and two votes in the Senate) the Kansas Court of Industrial Relations. It is not a court of arbitration or conciliation; it is a court of justice, and in the personnel of that court there is no man who represents labor from a professional standpoint, or employing capital from a professional standpoint—they all three represent Government, with its pledge of impartial justice.

We have all discovered that we have not made much effective progress by arbitration and conciliation; we have produced a beautiful book of language. We have gone farther, of course, in the report of the Second Industrial Conference than we had gone before in the suggestion of remedy. I think in that we have gone as far as the human mind and the human heart can go in conciliation; but, in my judgment, that report falls down just where arbitration and conciliation always fall down: at the point of definite decision. So the Kansas Court is founded upon the basis that arbitration has never provided any guarantee of successful adjudication. When you, representing employing capital, select your member of the board of arbitration, and I, representing labor, select my representative, and the two choose the umpire, that umpire may do one of three things. He may join your side and secure a partisan decision; he may join my side and secure a partisan decision; or he may dicker back and forth and secure a compromise. But into the consideration of that board of arbitration, there never comes any concern for the other party in the triangle, the party which in every essential industry is chiefly concerned, the public.

Out there in Kansas, we have been stratified somewhat as you have been here in New York: one and one-half per cent of the population representing employing capital at the top, six and one-half per cent representing organized labor at the bottom, and in between ninety-two per cent of us, a good-natured, protoplasmic formation, having no power save the good-natured power of passive resistance. Then, out in Kansas

when they sought to freeze us, this good-natured mass took on vitalization and began to heave and strain and feel muscle and tissue, and finally even anger. The law creating the court was passed on a Saturday night and on the next Monday 600 miners went out on what they called a "Protest Strike." They did not realize that in Kansas it had not in the past been left to the taste of those who live under the law, as to whether the law shall be enforced; and so the Attorney General went to the district for the purpose of bringing prosecutions under the criminal clauses of the law. When he had brought into the court a half dozen or more of the leaders who had brought on the strike, and had read the law and explained the purposes and the balance of justice in the court, they all said: "We are going to work in the morning. It wasn't a serious strike anyway; we had pay-day on Saturday, and this was just blue Monday."

This very significant thing happened at that hour. A group of miners having a grievance came voluntarily into the court and asked the court to adjudicate the grievance. That was significant for this reason: if they had followed their own by-laws, they would of course have taken their grievance first to their local chairman, who in turn would have taken it to the district chairman, who in turn would have taken it to the national committee, which in turn would have brought it to the operators. Then it would have gotten to the public in the form of a strike. But, ignoring all this elaborate machinery, they went voluntarily, over the head of their own officers, into the court and asked for adjudication.

Then Alexander Howat, the President of the district, had a meeting of his War Board, and a resolution was passed, declaring that any miner, or other member of the mining business belonging to the union, who appealed to the officers of the court, should be fined, for the individual fifty dollars; or if it were a union, or a union official \$5,000 should be the fine.

Our union friends talk a great deal about individual liberty and the undesirability of government seeking to take away any of their rights; yet they did not hesitate to impose this heavy penalty upon any man who should seek to obey the law of Kansas. The court went into the district for the purpose of taking testimony in this cause, brought by the miners them-

selves. One hundred miners were summoned. They all came into the court to testify, with the single exception of Alexander Howat, the President of the district, and the members of his cabinet, all of whom said, "We will not testify because we do not believe in the law." Of course, much to our regret, it was necessary to send them to jail, not because they did not believe in the law, but because they did not obey the law. Some of the radicals from the foreign element, went the next day to the jail and called upon Howat; the sheriff, who was a chummy sort of a chap, took Howat out on a balcony where he addressed the mining audience according to his taste and whatever gift he had of language, which was considerable. The miners said, "Well now, that's a fine event; we just make a joke of the law." They went back into the district and said, "Day after tomorrow we will have a real demonstration." So they gathered up four or five thousand and went back the day after tomorrow, and of course in the meantime we had moved Howat to a jail farther away, where he would not be molested by company, and discharged the sheriff from his office, and there was the play with "Hamlet" left out.

Then we all held our breath, wondering what would be the next step of these miners. If they were as angry as Howat believed they were, it of course meant destruction of property; possibly they might have torn down the old jail, which would have been a blessing to the community. But these miners, instead of evincing any anger, looked at each other, and one said, "Well, the laugh is on us;" and they went back home and many of them returned to work.

Now the teaching of the incident was merely this: that these men had come to realize that the law was beneficial, and the influence of the conservative element in their ranks was working silently, as conservative influence generally works (it is only the radical influence that works noisily, generally); and the feeling is growing all through the mining district that the law is entitled to its chance.

The law has operated three months, and in those three months it has produced some definite effects which concern the purpose of this conference. In less than three months we have produced more coal in the bituminous district of Kansas than any other five and a half months in the history of the

district can show. Last year, up to the present time, there were forty-two strikes. This year, there has been no strike. Our mining friends tell us that we have taken away the only weapon they had in their right to strike. I contend that we have given them a much more dependable and useful weapon in the government of the state. The other weapon they had used too much in that district. In the past thirty-three months, ending with the beginning of the operation of our law, there had been 396 strikes—more than eleven strikes a month—and these strikes had produced, in monetary victories for the miners, the sum total of \$778.94; they had cost the miners, in loss of wages, \$1,600,000; and the miners paid in dues for strike benefits, out of their own scanty purses, last year alone \$157,000. Surely government may do better for these poor people than that!

Now that we have established the court, it is found to have one advantage over anything that has been suggested. Its decisions are prompt and final. This court has teeth, and, fortunately for the justice of human society, the teeth are located both on the upper and the lower jaw.

We are proceeding upon an old and well recognized principle, that certain industries are impressed with a public interest, and because they are so impressed with a public interest, they are subject to reasonable regulation on the part of society. That is an old principle; it has been existing in organized government since the thirteenth century, when a blacksmith shop along the public highway in England was a public utility. For all these years, states and the federal government have recognized this principle, and so we have regulated the railroads; that is, we have regulated their fares, their rates, their safety appliances, their schedules, but we have not regulated the other very considerable element in railroad activities; we have never regulated labor. Indeed, on the other hand, we have allowed labor to regulate transportation, much to the disadvantage of the public sometimes. When these friends of ours, representing organized labor, come to talk to us about the impossibility of legislation for regulation, what explanation have they to make of their belief in the Plumb Plan, which is the strongest legislation that anybody has yet suggested in this country, and most of these union leaders are *for* it because

it provides for the purchase of the roads by the public and their operation in the interest of the railroad employees. How, in the light of their objection to regulative legislation, do they defend the action of their leaders in pushing through Congress, by coercion, the Adamson law? Why there never was an hour in the history of this country when any intelligent person has had so much occasion to bow his head in shame over the weakness of government, as that hour which saw the Adamson Law put through Congress at the intimidation of the labor unions.

I am going to read just a brief analysis of the law because I would like to lay it before you in the least phraseology possible. It provides that: "the operation of the great industries affecting food, clothing, fuel and transportation, is impressed with a public interest and subject to reasonable regulation by the State.

"It creates a strong, dignified tribunal, vested with power, authority and jurisdiction to hear and determine all controversies which may arise and which threaten to hinder, delay or suspend the operation of such industries.

"It declares it to be the duty of all persons, firms, corporations and associations engaged in such industries, to operate the same with reasonable continuity, in order that the people of that State may be supplied at all times with the necessities of life."

Before we passed the Kansas law, it was the habit of the operators to run the Kansas mines during the summertime on an average of about one day a week. It was more convenient, possibly, to sell coal upon a market that was a little short of coal, than upon a market that had a surplus, and so the average working time of a miner in that soft coal district during the year was 211 days. Now, under the Kansas Law, these mines will continue operation during the summertime and we will begin the season of the winter with a coal reserve instead of a coal famine.

"It provides that in cases of controversy arising between employers and employees, or between different groups or crafts of workers, which may threaten the continuity or the efficiency of such industries, and thus the production or transportation of the necessities of life, or which may produce an industrial strife or endanger the peaceful operation of such industries, it

shall be the duty of said tribunal, on its own initiative, or on the complaint of either party, or on the complaint of the Attorney General, or on complaint of citizens, to investigate and determine the controversy and to make an order prescribing rules and regulations, the hours of labor, the working conditions, and a reasonable minimum wage, which will thereafter be observed in the conduct of said industry until such time as the parties may agree.

“ It provides for the incorporation of unions or associations of workers recognizing the right of collective bargaining and giving full faith and credit to any such and all contracts made in the pursuance of said contracts.”

We do not deny to any man, or any group of men, the right to quit work (obviously society could not do that and should not do that) but we do deny to any man, or any group of men, the right to conspire to shorten the production in an essential industry, just as we deny the right of any operator to close down his factory for the purpose of affecting wages or the price of his product.

“ It provides for a speedy determination of the validity of any such order without the delay, which so often hampers the administration of justice in ordinary cases; it declares it unlawful for any person, firm or corporation to delay or suspend the production or transportation of the necessities of life, except upon application and order of said court. It declares it to be unlawful for any person, firm or corporation to discharge or discriminate against any employee. It makes it unlawful for any person, firm or corporation engaged in said lines of industry to cease operation for the purpose of limiting production, to affect prices, or to avoid any of the provisions of this Act; also it provides a means by which proper rules and regulations may be formulated by said tribunal. It provides for the operation of such industries as may be affected by changes in the season, market conditions, or other reasons inherent in the nature of the business.

“ It declares it unlawful for any person, firm or corporation, or for any association of persons to violate any of the provisions of this Act, or to conspire or federate with others to intimidate any person, firm or corporation engaged in such industries, with the intent to hinder, delay or suspend the operation of such industries.

“ It provides penalties by fine or imprisonment, or both, for persons, firms or corporations, or associations of persons, wilfully violating the provisions of the Act.

“ It makes provisions whereby an increase of wages granted to labor shall take effect as of the dates of beginning of the investigation.”

Now, by such means and through such legislation, I believe we will be able to prevent strikes, lockouts and blacklists, by making them unnecessary and impossible, and by giving labor as well as capital an able and just tribunal in which to litigate all controversies, to insure the people of the State at all times an adequate supply of those products which are absolutely necessary to the sustaining of life of civilized peoples. That by stabilizing production of these necessities, we will also to a great extent stabilize the price to the producer as well as to the consumer. That we will insure to labor steadier employment, at a fairer wage, and under better working conditions. That we will prevent the employers from having losses, as well as avoid all those economic wastes which attend industrial disturbances. That we will make the law respected, and will discourage and ultimately abolish intimidation and violence as means for the settlement of industrial controversies.

Those are the essential points of the law. In the last three months we have had several decisions under the law; most of them have been in favor of labor. We have decided a half dozen cases in the mining district, which might have been settled many months ago, but no effort had been made by the leaders of either side to determine them. Today the law is growing steadily and rapidly in the favor of those whom its provisions most affect. I believe that we have found the remedy. I do not believe that it will be accepted instantaneously; it will take time; it will have to make its way, but so far as my observation goes, it is the only remedy that any one has yet discovered, which gives paramount consideration to the rights of the public.

The basis of the law is in the inherent right of the state to protect itself and its members against anything that is prejudicial to the common welfare. This principle has been recognized for more than 20 centuries. It was inscribed upon one of the Twelve Tables of the Roman law: *Salus populi suprema lex*.

Samuel Gompers recently in discussing this law, said that Kansas was on the blacklist; that labor would filter out of the State and we would be left "laborless." I do not believe we are going to lose our workers; they are all there still. Of course, we may lose some radicals, but I believe that for every radical that leaves Kansas, two conservatives will come and we will build there a new type of industrial civilization, one which guarantees justice all the time under sane and impartial pledge of humane government.

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